IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 31009 of 2007(N)

PETITIONER:

C.M. JAYAKRISHNAN,
VASANTHALAYAM, P.O. CHALAD, KANNUR - 4.

BY ADV. SRI. R. PARTHASARATHY

RESPONDENTS:
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1. **THE DISTRICT EXECUTIVE OFFICER,**
   KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD, KANNUR -1.

2. **THE SECRETARY TO GOVERNMENT,**
   LABOUR AND REHABILITATION DEPARTMENT,
   THIRUVANANTHAPURAM.

3. **THE SPECIAL DEPUTY TAHSILDAR,**
   REVENUE RECOVERY, KANNUR-1.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD.
SRI. PAULSON C. VARGHESE, SC FOR R1.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

WP(C) No. 31009 of 2007

Dated, this the 24th day of October, 2007

J U D G M E N T

Against Ext.P1 final determination order passed by the 1st respondent, petitioner had filed Ext.P2 appeal before the 2nd respondent. It is submitted that subsequent thereto he had shifted his residence and had no intimation about the hearing of the appeal. It is submitted that he has now received Exts.P3 & P4 revenue recovery notices, which disclose that the amount sought to be recovered was the amount due in terms of the order passed in the appeal filed by him. Thereupon, the petitioner made an application for a copy of the appellate order and was served Ext.P6, by which his appeal was rejected. It is in this back ground, this writ petition has been filed.

2. It is admitted that after the appeal was filed, petitioner had shifted his residence. There is also no case for him that he had intimated his new address to the 2nd respondent for service of notice. If that be so, the appellate authority cannot be faulted for not serving notice on the petitioner in his new address. Therefore, Ext.P6 cannot be invalidated on that ground.

3. However, the fact remains that, by the impugned order petitioner is visited with additional monitory liability. Therefore, taking into account the submission that the petitioner has already paid a portion of the amount due as per Ext.P6 and that there was no deliberate latches on him, I am inclined to give the petitioner another opportunity to contest his appeal before the 2nd respondent. However, the same can only be conditional. Accordingly, I dispose of this writ petition with the following directions :-

(1) Ext.P6 order will stand quashed and the 2nd respondent shall issue notice to the petitioner in the address indicated in this judgment.

(2) The 2nd respondent shall thereafter re-consider Ext.P2 appeal with an opportunity to the petitioner for contesting the matter on merits.

(3) The petitioner shall deposit an amount of Rs. 15,000/- within a period of three weeks from now before the 1st respondent, and on that condition, further proceedings pursuant to Exts.P3 & P4 will stand deferred until the 2nd respondent takes a decision on Ext.P2 appeal.

4. The 2nd respondent shall pass final orders on Ext.P2 appeal as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment.

Petitioner will serve a copy of this judgment on the 2nd respondent for compliance.

This writ petition is disposed of as above.

(ANTONY DOMINIC, JUDGE.)

jg